

**NOTICE OF PUBLIC HEARING & PUBLICATION OF CODE OF ETHICS AND RULES  
AND REGULATIONS OF THE FRANKLIN TOWNSHIP MUNICIPAL ETHICS BOARD**

**NOTICE** is hereby given that the Code of Ethics and the Rules and Regulations of the Municipal Board of Ethics of the Township of Franklin was amended and approved by the Municipal Board of Ethics of the Township of Franklin, County of Somerset, on February 2, 2010.

**NOTICE** is hereby given that a Public Hearing on the Code of Ethics Rules and Regulations of the Municipal Board of Ethics of the Township of Franklin will be held at the Franklin Township Library, Community Meeting Room on Thursday, March 4, 2010 at 7:00 o'clock P.M. at which time and place objections to said Code of Ethics and Rules and Regulations may be presented by interested persons.

**AMENDING AND ADOPTING A CODE OF ETHICS FOR THE TOWNSHIP OF  
FRANKLIN, SOMERSET COUNTY, NEW JERSEY BY THE MUNICIPAL ETHICS BOARD  
OF SAID TOWNSHIP**

**WHEREAS**, the Municipal Ethics Board of the Township of Franklin, Somerset County, New Jersey has thoroughly reviewed the Local Government Ethics Law of the State of New Jersey and affirms the precepts of the State Legislature as follows:

- A. Public office and employment are a public trust;
- B. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives;
- C. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled;
- D. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties; and
- E. It is the purpose of this resolution to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for local government officers and employees shall be clear, consistent, uniform in their application, and enforceable on a statewide basis, and to provide local officers or employees with the advice and information concerning possible conflicts of interests which might arise in the conduct of their public duties.

**NOW, THEREFORE, BE IT RESOLVED** by the Municipal Ethics Board of the Township of Franklin, Somerset County, New Jersey that the following shall represent the Code of Ethics for said Township:

## § 1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- A. **BOARD** – The Municipal Ethics Board of the Township of Franklin, Somerset County, New Jersey.
- B. **BUSINESS ORGANIZATION** – Any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.
- C. **GOVERNING BODY** – The Township Council of the Township of Franklin, Somerset County, New Jersey.
- D. **INTEREST** – The ownership or control of more than 10% of the profits, assets or stock of a business organization or any interest whatsoever which yields directly or indirectly to the local government officer or employee or member of his/her immediate family a monetary or other material benefit but shall not include the control of assets in a non-profit entity or labor union.
- E. **LOCAL GOVERNMENT AGENCY** – Any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within a county or municipality, and any independent local authority, including any entity created by more than one county or municipality, which performs functions other than a purely advisory nature, but shall not include a school board.
- F. **LOCAL GOVERNMENT EMPLOYEE** – Any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district.
- G. **LOCAL GOVERNMENT OFFICER** – means any person whether compensated or not, whether part-time or full time: (1) elected to any office of a local government agency; (2) serving on a local governmental agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal, county or regional authority; or (4) who is a managerial executive or confidential employee of a local government agency, as defined in Section 3 of the “New Jersey Employer-Employee Relations Act,” P.L. 1941, c 100 (C. 34:13A-3), and members of various boards, committees, authorities and commissions as set forth in the Rules and Regulations of the Municipal Ethics Board, but shall not mean any employee of a school district or member of a school board.

- H. *MEMBER OF IMMEDIATE FAMILY* – The spouse, domestic partner, partner in civil union, blood or adopted relative of local government officer or employee residing in the same household.

## **§ 2. Regulations.**

Local government officers or employees under the jurisdiction of the Municipal Ethics Board shall comply with the following provisions:

- A. No local government officer or employee or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his/her duties in the public interest;
- B. No independent local authority shall, for a period of one year subsequent to the termination of office of a member of that authority:
  - (1) Award any contract which is not publicly bid to a former member of that authority;
  - (2) Allow a former member of that authority to represent, appear for, or negotiate on behalf of any other party before that authority; or
  - (3) Employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey statutes and rules and regulations promulgated pursuant thereto, any former member of that authority.

The restriction contained in this subsection shall also apply to any business organization in which the former authority member holds an interest;

- C. No local government officer or employee shall use or attempt to use his/her official position to secure unwarranted privileges or advantages for himself/herself or others;
- D. No local government officer or employee shall act in his/her official capacity in any matter where he/she, a member of his/her immediate family, or business organization in which he/she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgment;
- E. No local government officer or employee shall undertake any employment or service, whether compensated or not which might reasonably be expected to prejudice his/her independence of judgment in the exercise of his/her official duties;

- F. No local government officer or employee, member of his/her immediate family, or business organization in which he/she has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him/her, directly or indirectly, in the discharge of his/her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his/her official duties;
- G. No local government officer or employee shall use, or allow to be used, his/her public office or employment, or any information not generally available to the members of the public, which he/she receives or acquires in the course of and by reason of his/her office or employment, for the purpose of securing financial gain for himself/herself, any member of his/her immediate family, or any business organization with which he/she is associated;
- H. No local government officer or employee or business organization in which he/she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he/she serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;
- I. No local government officer shall be deemed in conflict with these provisions if, by reason of his/her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him/her as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;
- J. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or another thing of value is promised to, given to or accepted by the officer or a member of his/her immediate family, whether directly or indirectly, in return therefore;
- K. Nothing shall prohibit any local government officer or employee, or members of his/her immediate family, from representing himself/herself or themselves, in negotiations or proceedings concerning his/her, or their, own interests;

- L. No local government officer or employee shall, within three months of his/her termination of service or employment, appear representing a private interest other than himself/herself before any board, commission, agency or other body of the Township, or within one year in relation to any case, proceeding or application in which he/she participated during the period of his/her service or employment or which was under his/her active consideration;
- M. No local government officer or employee shall disclose any part of an executive session meeting that has not been released in the minutes. This provision does not exclude a local government officer or employee from disclosing the proceedings of an executive session meeting to the Ethics Board, during an executive session of an Ethics Board investigation;
- N. No local government officer or employee shall use his/her position or official powers to harass or threaten to harass a fellow local government officer, employee or member of the public; and
- O. No local government officer or employee shall harass or in any way retaliate against an individual for reporting a possible violation or concern to the Ethics Board. This is intended to serve as "whistle blower" protection.

**§ 3. Disclosure statements.**

- A. Local government officers shall annually file two (2) signed copies of a financial disclosure statement pursuant to this resolution which shall include the following information, specifying, where applicable, the name and address of each source of income and the local government officer's job title:
  - (1) Each source of income, earned or unearned, exceeding \$2,000 received by the local government officer or a member of his/her immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his/her immediate family has an interest in the business organization;
  - (2) Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the local government officer or a member of his/her immediate family during the preceding calendar year;
  - (3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the local government officer or a member of his/her immediate family during the preceding calendar year;

- (4) The name and address of all business organizations in which the local government officer or a member of his/her immediate family had an interest during the preceding calendar year; and
  - (5) The address and brief description of all real property in the State in which the local government officer or a member of his/her immediate family held an interest during the preceding calendar year.
- B. The Local Finance Board shall prescribe a financial disclosure statement form for filing purposes. The Local Finance Board shall transmit sufficient copies of the forms to the Municipal Ethics Boards for filing in accordance with this resolution. The Ethics Boards shall make the forms available to the local government officers within their jurisdiction.

For local government officers serving the municipality, two (2) original, signed statements shall be filed to the Municipal Clerk in the municipality in which the local government officer serves. The Municipal Clerk shall forward an original signed statement to the State of New Jersey, Department of Community Affairs, Local Finance Board. A copy of the statement shall be made by the Municipal Clerk to be filed with the Municipal Ethics Board. Statements shall be filed on or before April 30th each year. Any person appointed to the position of a local government officer subsequent to April 30th shall be required to file a financial disclosure statement within 30 days of his/her appointment and shall thereafter file such disclosure statements on or before April 30th of each year.

- C. All financial disclosure statements filed with the Municipal Ethics Board shall be public record.

**§ 4. Powers of the Municipal Ethics Board.**

- A. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of this resolution;
- B. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- C. To forward to the County Prosecutor or the Attorney General or other governmental body any information concerning violations of the municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;
- D. To render advisory opinions to any individual as to whether a given set of facts and circumstances would constitute a violation of any provision of this resolution;

- E. To enforce the provisions of the municipal code of ethics and financial disclosure requirements with regard to local government officers or employees serving the municipality and to impose penalties for the violation thereof as are authorized by this resolution; and
- F. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this resolution.

**§ 5. Advisory opinions.**

A local government officer or employee serving the municipality may request and obtain from the municipal ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the municipal code of ethics or any financial disclosure requirements. Advisory opinions of the municipal ethics board shall not be made public, except when the ethics board by the vote of 2/3 of all its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the board in directing that the opinion be made public so determines.

**§ 6. Penalties.**

- A. An appointed local government officer or employee found guilty by the Municipal Ethics Board of the violation of any provision of this resolution, or of any code of ethics in effect pursuant to this resolution, shall be fined not less than \$100, nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:59-1). The Municipal Ethics Board shall report its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee and may recommend that further disciplinary action be taken.
- B. An elected local government officer or employee found guilty by the Municipal Ethics Board of the violation of any provision of this resolution or of any code of ethics in effect pursuant to this resolution, shall be fined not less than \$100, nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 58-1 et seq.).
- C. All hearings required pursuant to this resolution shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the Administrative Procedure Act, P.L. 1968, c. 410 (N.J.S.A. 52:14B-1 et seq.).

The finding by the Municipal Ethics Board that an appointed local government officer or employee is guilty of the violation of the provisions of this resolution, or of any code of ethics in effect pursuant to this resolution, shall be sufficient cause for

his/her removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline.

**AMENDED RULES AND REGULATIONS OF THE FRANKLIN  
TOWNSHIP MUNICIPAL ETHICS BOARD**

**WHEREAS**, the Township of Franklin Municipal Ethics Board is desirous of adopting rules and regulations in connection with the Municipal Ethics Code pursuant to N.J.S.A. 40A:9-22.22(f).

**BE IT RESOLVED THAT** the Township of Franklin Municipal Ethics Board hereby adopts the following rules and regulations:

**A. Disclosure statements.**

- (1) The following managerial, executive and confidential employees and professionals shall submit disclosure statements to the Franklin Township Municipal Ethics Board:

Chief Financial Officer	Construction Official
Fire Prevention Director	Director of Social Services
Construction Official/Deputy	Parks & Recreation Director
Fire Prevention Director/Deputy	Housing Authority Director
Library, Director	Prosecutor
Parks & Recreation Director/Assistant	Public Works Director
Planning Director	Purchasing Administrator
Police Chief	Sewerage Authority Superintendent
Prosecutor/Associate/Alternate	Tax Assessor
Public Defender/Special Public Defender	Tax Collector
Sewerage Authority Director	Township Clerk
Sewerage Authority Engineer	Township Engineer
Tax Assessor/Deputy	Township Manager-Asst/Personnel Officer
Tax Collector/Deputy	Township Manager
Township Clerk/Deputy	
Zoning Officer	

Confidential Twp. Employees – Per Union Contracts:

Township Manager Office	Police Chief Office
Payroll Office	Personnel/Benefits Office
Public Works Office	IT Personnel

Confidential Employees of:

Library Board	Fire Districts
Housing Authority	Redevelopment Agency
Sewerage Authority	

(2) The following professionals shall submit disclosure statements to the Franklin Township Municipal Ethics Board:

Township Attorney	Planning Board Attorney
Board of Adjustment Attorney	Housing Authority Attorney
Rent Leveling Board Attorney	Sewerage Authority Attorney
Fire District Attorney	Redevelopment Agency Attorney
Special Counsel	Labor Attorney
Litigation Attorney	Land Use Attorney

(3) For purposes of submission of Disclosure Statements to the Franklin Township Municipal Ethics Board, the following boards/commissions/agencies are specifically designated as those set forth in Section 1G, Definition of Local Government Officer:

Township Council	Fire District Commissioners
Adjustment, Board of	Planning Board
Historic Preservation Commission	Municipal Ethics Board
Rent Leveling Board	Fire Prevention Board
Redevelopment Agency	Library Board
Shade Tree Commission	Housing Authority
Sewerage Authority	Environmental Commission
Open Space Advisory Committee	

## **B. Ethics complaint procedure.**

### ***(1) Form of Complaint.***

An allegation of a violation of the Municipal Ethics Code may be filed as a complaint by any individual with the Municipal Ethics Board through the Township Clerk when such individual has knowledge or information that a violation of this code may exist. The complaint shall be in writing, in a sealed envelope, which is addressed to the "Municipal Ethics Board", and shall be signed by the individual making the allegation. The complaint shall contain a clear and concise statement of the facts alleged to constitute such violation.

### ***(2) Forwarding of Complaint***

Upon receipt of an envelope addressed to the Municipal Ethics Board, the Township Clerk shall forward it, unopened, to the Chairperson or Vice-Chairperson of the Municipal Ethics Board within 5 days after receiving it.

### ***(3) Acknowledgement of Complaint***

The Municipal Ethics Board Chairperson or Vice-Chairperson, upon receipt of a signed written complaint by any individual alleging that the conduct of any local government officer or employee is in conflict with the provisions of the Ethics Code, shall acknowledge receipt of the complaint within 15 days of receipt from the Township Clerk by letter to the individual making the complaint.

### ***(4) Determination of Further Action on the Complaint and/or Initiation of Investigation***

The Board shall make a determination as to whether the complaint is outside its jurisdiction or whether the allegations, if true, constitute a violation of the Code or whether the complaint requires further attention. The Board shall reduce its conclusion to writing and shall transmit a copy thereof to the complainant within 60 days from receipt of the signed written complaint from the Township Clerk. The Board shall notify the complainant every 60 days of the status of the complaint and the actions of the Board regarding it.

If the Board determines that it has jurisdiction over such a complaint and that there is a reasonable basis for it, the Board shall, within the 60 days following receipt of the signed written complaint from the Township Clerk, initiate an investigation concerning the facts and circumstances set forth in the complaint.

If the Board, in attempting to determine whether the complaint requires further attention, determines that it requires further information, the Board shall notify the complainant. The complainant has 30 days from receipt of the notification to present the Board with additional information. If the Board concludes that there is insufficient information to proceed, it shall reduce its conclusion to writing and shall transmit a copy thereof to the complainant and to the officer or employee against whom the complaint was filed. Said conclusion will not include the name of the complainant.

### ***(5) Notification of Involved Parties; Discovery and Hearings***

If at any point the Board determines that reasonable doubt exists as to whether the officer or employee against whom the complaint was filed is in conflict with the provisions of the Ethics Code, the Board shall notify the complainant and the officer or employee against whom the complaint was filed. Both parties shall have the opportunity to present to the Board a statement and/or information concerning the complaint, within 30 days from receipt of the notification by the Ethics Board.

If the Board determines that reasonable doubt continues to exist as to whether the officer or employee against whom the complaint was filed is in conflict with the provisions of the Ethics Code, the Board shall continue to conduct further

investigation(s) and/or hearing(s) until it can render a decision. During this time, at 60-day intervals, it will inform both parties of the dates and duration of any meetings during which the case was discussed.

***(6) Decision, Penalties, and Appeal***

The Board shall render a decision as to whether the conduct of the officer or the employee is in conflict with the provisions of the Ethics Ordinance. This decision shall be made by no less than two-thirds (2/3) of all members of the Board. If the Board determines that the officer or employee is in conflict with the provisions of the Ethics Code, it may impose any penalties which it believes appropriate within the limitations of the Ethics Code. A final decision of the Board may be appealed to the Local Finance Board within 30 days of the decision.

***(7) Confidentiality***

In accordance with the Open Public Records Act:

- Allegations of violations of the Municipal Ethics Code shall be confidential;
- The deliberative process of the Municipal Ethics Board shall be confidential;
- Access to the findings of the Municipal Ethics Board shall be granted to the public upon release by the Municipal Ethics Board, by a vote of two-thirds (2/3) of all its members.

***(8) Unsigned Allegation of Violation(s)***

If the Ethics Board receives an unsigned allegation of violations(s), the Board may or may not initiate an investigation.

**C. Advisory opinions.**

A local government officer or employee serving the municipality may request and obtain from the municipal ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the municipal code of ethics or any financial disclosure requirements. Advisory opinions of the municipal ethics board shall not be made public, except when the ethics board by the vote of 2/3 of all its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the board in directly that the opinion be made public so determines.

**D. Ethics Board Consultation Procedure.**

Any individual may request and obtain from the Municipal Ethics Board an Ethics Board consultation as to whether any activity or conduct would, in its opinion,

constitute a violation of the Municipal Code of Ethics or any financial disclosure requirements.

***(1) Form of Request for an Ethics Board Consultation***

The request shall be in writing, in a sealed envelope, which is addressed to the "Municipal Ethics Board". The request shall indicate the nature of the activity or conduct and the accurate contact information of the requestor.

***(2) Forwarding a Request for an Ethics Board Consultation***

Upon receipt of an envelope addressed to the Municipal Ethics Board, the Township Clerk shall forward it, unopened, to the Municipal Ethics Board Chairperson or Vice-Chairperson within 5 days after receiving it.

***(3) Acknowledgement of Request for an Ethics Board Consultation***

Within 21 days of receipt from the Township Clerk of the letter making the request for an Ethics Board consultation, the Municipal Ethics Board shall acknowledge receipt of the request and arrange a meeting date with the Board and the individual requesting the Ethics Board consultation.

***(4) Rendering an Ethics Board Consultation***

Within 30 days after meeting with the individual requesting an Ethics Board consultation, or 30 days after acknowledgement of receipt of the request if no meeting is requested, the Board shall make a determination as to whether the activity or conduct, in its opinion, constitutes a violation of the Municipal Code of Ethics or any financial disclosure requirements. The Board shall notify the individual requesting an Ethics Board consultation that it has rendered a decision and is available to meet at a date to be arranged. The Board shall read its opinion to the individual requesting an Ethics Board consultation in executive session.

***(5) Release of Ethics Board Consultation to the Public***

Ethics Board consultations of the Municipal Ethics Board shall not be made public, except when the Ethics Board by a vote of two-thirds (2/3) of all its members directs that the opinion be made public. Public Ethics Board consultations shall not disclose the identities of those involved, unless the Board, in directing that the opinion be made public, so determines.

Ann Marie McCarthy, RMC, CMC  
Township Clerk